



The Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Allen-Sherman-Hoff Company--Request for
Reconsideration

File: B-231552.2

Date: September 1, 1988

DIGEST

Contention that definitive responsibility criterion requiring successful erection of a dry fly ash collection facility of similar magnitude and approximate dollar value as facility required under solicitation was not met is without merit where the proposal contained information from which the contacting officer reasonably could conclude that the offeror's proposed subcontractor had successfully erected a comparable facility. The relative quality of the information provided and the need for further investigation are within the discretion of the contracting officer.

DECISION

Allen-Sherman-Hoff Company (ASH) requests reconsideration of our decision, Allen-Sherman-Hoff Co., B-231552, Aug. 4, 1988, 88-2 CPD ¶ ___, in which we denied ASH's protest against the award of a contract to United Conveyor Corporation/United Service Conveyor Corporation (UCC), under request for proposals (RFP) No. GL-062989A, issued by the Tennessee Valley Authority (TVA) for the construction of a dry fly ash collection facility. We affirm the decision.

The only issue which ASH raises on reconsideration concerns whether UCC fulfilled a definitive responsibility criterion in the RFP which required that the offeror have: "successfully erected, tested and started up a facility of similar magnitude and approximate dollar value as the facility specified herein" (erection requirement).

In our initial decision, we held that this requirement could be fulfilled by the experience of the offeror's subcontractor, and that it had been satisfied by Midwesco, UCC's proposed subcontractor. We noted that ASH conceded that this proposed subcontractor had the requisite installation experience. In its reconsideration request, ASH again

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asserts that the requirement may not be fulfilled by the subcontractor's experience, and also asserts that Midwesco lacks the requisite experience. ASH notes that it questioned Midwesco's qualifications in a letter which ASH submitted to our Office on August 9, after our decision was signed, but before the decision was received by ASH.

As we pointed out in the original decision, the RFP included two separate definitive responsibility criteria, one of which was that the offeror have successfully: "designed, supplied, delivered, and had in successful operation in one or more coal-fired central electric generating stations for a period of at least two years, a dry fly ash collection facility of similar capacity type, and design as that specified herein" (design requirement). ASH explicitly acknowledged that this requirement was met by UCC. The second criterion is the erection requirement which was quoted earlier. As we noted in our first decision, the RFP explicitly prohibited satisfying the design requirement through the experience of a proposed subcontractor, but did not so prohibit satisfying the erection requirement. Accordingly, we concluded that the clear implication was that the erection requirement could be met by the proposed subcontractor's experience.

On reconsideration, ASH points to a letter from TVA to UCC relating to the predecessor invitation for bids (IFB), which included the same definitive criteria. In that letter, TVA stated that: "The experience requirements of design, supply, delivery, and successful operation must be met through the experience of the Bidder (experience of proposed subcontractors is not acceptable)." However, this statement refers only to the design requirement. It does not refer to the independent erection requirement, which the letter goes on to discuss separately and, therefore, does not provide any evidence that the erection requirement could not be satisfied by the experience of the proposed subcontractor.

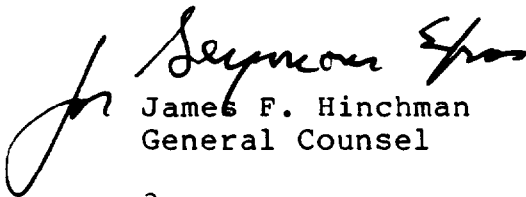
Concerning the information evidencing compliance which UCC provided with its proposal, where an allegation is made that a definitive responsibility criterion has not been satisfied, the scope of our review is limited to ascertaining whether sufficient evidence of compliance has been submitted from which the contracting officer reasonably could conclude that the criterion has been met. The relative quality of the evidence is a matter for the judgment of the contracting officer. Topley Realty Co., Inc., B-221459, 65 Comp. Gen. ____, 86-1 CPD ¶ 398. Further,

the extent to which investigation may be required is a matter for the contracting officer to determine, not our Office. BBC Brown Boveri, Inc., B-227903, Sept. 28, 1987, 87-2 CPD ¶ 309.

As evidence of meeting the erection requirement, UCC's proposal contained a list of eight dry fly ash collection facility installations. ASH argues that the installations listed are not comparable because they are smaller in dollar value, and the installations were not at generating plants which fall within the industry definition of a "central electric generator station." In this latter regard, however, the RFP's erection requirement refers only to having erected a similar dry fly ash collection facility. The requirement for having designed such a facility in one or more coal-fired central electric generating stations pertains only to satisfying the separate design requirement. Therefore, ASH's argument regarding whether the dry ash collection facilities were installed in projects which meet the definition which ASH contends is the industry standard for a generating plants is irrelevant.

Regarding the requirement for similar dollar value of the facility installation, we note that the American Crystal Sugar facility listed by UCC is a completed \$19,000,000 project, which is substantially in excess of the dollar value of the project being procured. Midwesco was the prime contractor on this listed project. ASH contends that the dry fly ash collection facility component of the American Crystal Sugar project was significantly lower in dollar value than the dry fly ash collection facility component under the subject solicitation. However, in view of the listed dollar value of the project, in conjunction with the offeror's representation that it satisfies the RFP's erection requirement, and the fact that the proposal lists the name and telephone number of a representative of the customer who is familiar with this installation, we find that UCC's proposal contained sufficient evidence to permit TVA to conclude that UCC had fulfilled the erection requirement. Our Office will not reevaluate the quality of the evidence submitted by UCC, or question the contracting officer's judgment in this regard. See BBC Brown Boveri, Inc., B-227903, supra.

The prior decision is affirmed.


James F. Hinchman
General Counsel